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March 9, 1998

**Ex Parte**

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M Street, NW  
Room 222  
Washington, DC 20554

**RECEIVED**

**MAR - 9 1998**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: CC Docket No. 98-11**

Dear Ms. Salas:

The attached letter from Mr. Raymond Smith, Chairman of the Board and Chief Executive Officer of Bell Atlantic, was delivered to Commissioner Susan Ness late last week. Please enter this letter into the record for the above-referenced proceeding.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Mary Liz Hepburn', followed by a long horizontal line.

Attachment

cc: The Honorable Susan Ness

No. of Copies rec'd  
List ABCDE

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Bell Atlantic Corporation  
1095 Avenue of the Americas  
39th Floor  
New York, NY 10036  
212 395-1020

Raymond W. Smith  
Chairman of the Board and  
Chief Executive Officer  
- -

March 5, 1998



The Honorable Susan Ness  
Commissioner  
Federal Communications Commission  
1919 M Street, NW  
Washington, D.C.

Dear Susan:

I enjoyed our recent breakfast meeting. Here are some answers to concerns you raised about our "Section 706" petition.

1. The Legal Authority for Deregulation

At our meeting you expressed interest in the legal authority supporting our petition. Section 706 contains an express grant of authority to approve our petition. The Telecommunications Act of 1996 in its very title states that it is "[a]n Act to promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies." (emphasis added). Section 706(a) of the 1996 Act implements this Congressional intent. It states that "[t]he Commission . . . shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment."

Section 706 thus grants the Commission broad authority to use deregulatory tools to accelerate the deployment of advanced telecommunications services for all Americans. The targeted grant of "regulatory forbearance" in 706 gives the Commission explicit authority to deregulate high-speed broadband services. There is no restriction on the type of regulatory forbearance permitted for this very narrow purpose, thus permitting forbearance from Section 271.

The grant of forbearance authority for high-speed broadband networks is independent of and in contrast to the generic "forbearance" provision in Section 10 of the Act. Section 10(a) gives the Commission broad authority to forbear from any rule or regulation of the Commission, and then limits that grant by noting that "the Commission

may not forbear from applying the requirements of section 251(c) or 271 under subsection (a) of this section until it determines that those requirements have been fully implemented.” (emphasis added). By its terms, this proviso is an exception only to the Commission’s forbearance authority under Section 10(a). Congress’s addition of the underlined words confirms the congressional contemplation of other forbearance authority, such as the specific authority to promote investment in advanced telecommunications infrastructure addressed by Section 706. The underlined words would be rendered meaningless and unnecessary if Section 10(c) were read as a bar to any Section 271 or 251 forbearance.

The Commission also has the authority to grant interLATA relief for packet-switched, high-speed broadband networks independently of Section 706. Section 3(25)(B) of the 1996 Act expressly permits the Commission to approve modifications of a “local access and transport area” or “LATA,” just as the district court itself prior to 1996 approved numerous modifications of the LATA boundaries to permit wireless carriers to offer services over larger geographic areas. Packets of information do not stop at LATA borders. Just as wireless customers do not travel within nice, neat calling areas, high-speed data can arrive at a personal computer from any point on the planet. Bell Atlantic seeks interLATA relief for high-speed services because our customers require it—they will not tolerate artificial gateways mandated in an attempt to conform 21<sup>st</sup> century technology to outmoded regulations based on a slow, analog circuit-switched network.

## 2. Bell Atlantic Needs Regulatory Relief for Aggressive ADSL Deployment

Bell Atlantic will not deploy ADSL and other advanced technologies quickly and extensively without the relief we have requested. As Congress recognized in Section 706 and Reed Hundt noted before he left the Commission, current Commission rules impede aggressive investments in new technology.

It is difficult to make a compelling business case for investing in advanced technologies if we must unbundle those services and sell them to our competitors at TELRIC prices. In such a case Bell Atlantic would assume all the risks of research, development, and deployment while our competitors would reap the benefits of our successful innovations by buying those services at a substantial discount. Instead, the Commission can increase investment in advanced broadband services by deregulating such services altogether, so that Bell Atlantic and its competitors play by the same rules.

Deregulation, not the extension of regulation to new technologies, will fulfill the Congressional intent of encouraging the widespread deployment of advanced technologies. Under the deregulation we have proposed, competitors can buy copper loops from Bell Atlantic, collocate in our central offices, and then put their own electronics on those loops. Anyone -- Bell Atlantic or our CLEC, cable or satellite competitors -- can price advanced services as they wish and make money from them to the extent the market permits.

Some argue that Bell Atlantic will roll out some ADSL no matter what relief we receive. But the mandate of Section 706, and the intent of Congress, is to drive the deployment of advanced services to all Americans. Without regulatory relief that enables Bell Atlantic to earn a decent profit on its risky investment, we cannot justify going outside major metropolitan areas that are less dense and have long copper loops.

3. Deregulation Will Spur Competition

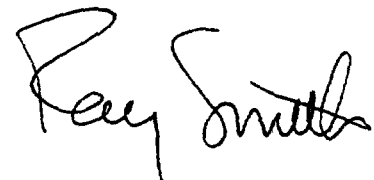
Our Section 706 proposal is pro-competitive. We don't have a monopoly bottleneck over high-speed data services, nor does Bell Atlantic have a dominant – or indeed any – position in these advanced services. At present only cable and satellite companies offer data services with greater than ISDN speeds into the home, and they offer these without using our facilities. Bell Atlantic's provision of ADSL will increase the choices for high-speed Internet access. Furthermore, competitors can put their ADSL electronics on our loops; as Bell Atlantic deploys ADSL widely, our competitors will be spurred to do the same. Under current rules, that spur is blunted: giving competitors the right to buy our advanced technologies at a discount discourages them from investing in their own facilities and research and development, and thus harms competition.

Furthermore, Bell Atlantic still will have every incentive to reach the Section 271 carrot, measured by the \$15+ billion long distance voice market in our region. No company is working harder than Bell Atlantic to gain long-distance entry through 271, as I think you know.

Bell Atlantic will give its customers advanced services when you permit us to do so. Bell Atlantic has spent months now trying to figure out to roll out ADSL widely and profitably in light of existing regulations and have concluded it is difficult. We also are planning to roll out a high-speed interLATA backbone network in our region but can't until we are allowed to enter the market.

If we get relief now, we can make the three pillars of Congressional intent stated in the very title of the Act – the promotion of competition, reduction of regulation, and deployment of advanced networks – a reality. We seek your support in this effort.

With warmest regards,

A handwritten signature in black ink, appearing to read "Ray Smith". The signature is fluid and cursive, with the first name "Ray" and the last name "Smith" clearly distinguishable.